



Senate

General Assembly

File No. 551

February Session, 2018

Substitute Senate Bill No. 508

Senate, April 17, 2018

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT RESTRICTING THE USE OF NONDISPARAGEMENT AND SETTLEMENT AGREEMENTS BY STATE AGENCIES AND QUASI-PUBLIC AGENCIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2018*) (a) For the purposes of
- 2 this section, "state agency" means any department, board, council,
- 3 commission, institution or other executive branch agency of state
- 4 government, including, but not limited to, each constituent unit and
- 5 each public institution of higher education. On and after October 1,
- 6 2018, no state agency shall make a payment to an employee resigning
- 7 or retiring from employment with such state agency for the purposes
- 8 of avoiding costs associated with potential litigation or pursuant to a
- 9 nondisparagement agreement unless such payment is made pursuant
- 10 to (1) a settlement agreement entered into by the Attorney General on
- 11 behalf of the state agency, or (2) an authorization by the Governor
- 12 pursuant to section 3-7 of the general statutes.

13 (b) No nondisparagement agreement or settlement agreement as
14 described in subsection (a) of this section may prohibit an employee
15 from making a complaint or providing information in accordance with
16 section 4-61dd or sections 4-276 to 4-280, inclusive, of the general
17 statutes.

18 Sec. 2. (NEW) (*Effective October 1, 2018*) (a) On and after October 1,
19 2018, no quasi-public agency, as defined in section 1-120 of the general
20 statutes, shall make a payment to an employee resigning or retiring
21 from employment with such quasi-public agency for the purposes of
22 avoiding costs associated with potential litigation or pursuant to a
23 nondisparagement agreement.

24 (b) No nondisparagement agreement or settlement agreement as
25 described in subsection (a) of this section may prohibit an employee
26 from making a complaint or providing information in accordance with
27 section 4-61dd of the general statutes.

| | | |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2018</i> | New section |
| Sec. 2 | <i>October 1, 2018</i> | New section |

Statement of Legislative Commissioners:

In Section 2(a), "state" was changed to "quasi-public" for accuracy.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 19 \$ | FY 20 \$ |
|-------------------------------------|---------------------|-----------------|-----------------|
| Various State Agencies | Various - See Below | Indeterminate | Indeterminate |
| Various Quasi-Public State Agencies | Various - See Below | Indeterminate | Indeterminate |

Note: Various=Various

Municipal Impact: None

Explanation

The bill has an indeterminate impact to all state agencies and quasi-public state agencies by restricting them from making payments to employees to avoid costs associated with potential litigation or pursuant to a nondisclosure agreement.

Under the bill, a state agency may only make such a payment under a settlement agreement that the attorney general entered on the agency's behalf or a compromise that the governor authorized related to a disputed claim by or against the state or a state department or agency.

In circumstances where no further litigation would have been pursued, there would be a savings to agencies by the bill's restriction. In circumstances where further litigation will be pursued as a result of the bill's restriction there may be potential costs to the respective agency. The scope of the savings or costs would vary on a case by case basis.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 508*****AN ACT RESTRICTING THE USE OF NONDISPARAGEMENT AND SETTLEMENT AGREEMENTS BY STATE AGENCIES AND QUASI-PUBLIC AGENCIES.*****SUMMARY**

This bill limits the circumstances in which state agencies may pay an employee to resign or retire (1) in order to avoid costs related to potential litigation or (2) under a nondisparagement agreement. It also prohibits quasi-public agencies from making such payments.

Under the bill, a state agency may only make such a payment under a (1) settlement agreement the attorney general entered on the agency's behalf or (2) compromise the governor authorized related to a disputed claim by or against the state or a state department or agency.

Under the bill, no nondisparagement or settlement agreement between an employee and a state or quasi-public agency may prohibit an employee from making a complaint or providing information in accordance with the state's whistleblower laws. Additionally, no such agreement between an employee and state agency may prohibit the employee from making a complaint or providing information related to the attorney general's investigation into false claims for benefits from state-administered health or human services programs.

EFFECTIVE DATE: October 1, 2018

STATE AND QUASI-PUBLIC AGENCIES

For the bill's purposes, "state agencies" include any department, board, council, commission, institution, or other executive branch agency, including each constituent unit and higher education institution.

Under the bill, “quasi-public agencies” include Connecticut Innovations, Inc. and the:

1. Connecticut Health and Educational Facilities Authority,
2. Connecticut Higher Education Supplemental Loan Authority,
3. Connecticut Student Loan Foundation,
4. Connecticut Housing Finance Authority,
5. Connecticut Housing Authority,
6. Materials Innovation and Recycling Authority,
7. Capital Region Development Authority,
8. Connecticut Lottery Corporation,
9. Connecticut Airport Authority,
10. Connecticut Health Insurance Exchange,
11. Connecticut Green Bank,
12. Connecticut Retirement Security Authority,
13. Connecticut Port Authority, and
14. State Education Resource Center.

BACKGROUND

Related Bill

sSB 174 (File 90), reported favorably by the Government Administration and Elections Committee, contains a provision that also prohibits state agencies from making a payment to a departing employee that is intended to avoid litigation costs or is part of a non-disparagement agreement.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 38 Nay 0 (04/02/2018)